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AUG 2 2008

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

MAURICE L. HUDSON
(212) 788-8684
fax: (212) 788-9776
mhudson@law.nyc.gov

August 22, 2008

MEMO ENDORSED

BY FAX: (212) 805-6326
Honorable Colleen McMahon
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

9/2/08
You can have
30 extra days to
make your motion
no more

Re: Andrew Pinckney v. Herts #18147, et al.
07-CV-11310 (CM)(MHD)

Your Honor:

I am an attorney in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing the defendants in the above-referenced federal civil rights lawsuit. I write pursuant to Your Honor's individual rules regarding qualified immunity, and in response to plaintiff's letter dated August 18, 2008, to respectfully request additional time within which to brief defendants' motion for summary judgment on the issue of qualified immunity. Because plaintiff is incarcerated and proceeding *pro se*, this request is made directly to the Court.

By way of background, on April 2, 2008, defendants served and filed a bare motion notice for summary judgment on the issue of qualified immunity. Pursuant to Your Honor's individual rules, defendants were required to take plaintiff's deposition within thirty (30) days. However, as Your Honor may recall, there have been a series of challenges with respect to taking plaintiff's deposition, and the case was referred to Magistrate Judge Dolinger on May 30, 2008, for the purpose of completing plaintiff's deposition.

Ultimately, defendants did essentially complete plaintiff's deposition at Rikers Island on July 23, 2008. However, the conditions under which the deposition was conducted were not optimal. Given these circumstances, defendants submit that it would be better if the parties were afforded an opportunity to receive and review the deposition transcript prior to briefing the April 2, 2008, motion. Notably, defendants have not yet received the deposition transcript from the court reporter, and will require time pursuant to Fed.R.Civ.P. 50(e) to review and sign same.

Finally, on August 19, 2008, Your Honor referred this case to Magistrate Judge Dolinger for the purpose of deciding plaintiff's pending July 25, 2008, motion "to stop harassment and retaliation". Defendants opposed plaintiff's motion on or about August 15, 2008, and the matter is now before the magistrate judge..

Accordingly, for the reasons set forth herein, it is respectfully requested that the Court extend the briefing schedule for defendants' motion for summary judgment on the issue of qualified immunity to such time as the Court deems appropriate.

I apologize to the Court for any inconvenience associated with this request and thank you for your consideration of this matter.

Respectfully submitted,



Maurice L. Hudson
Assistant Corporation Counsel

cc: **BY FAX: (212) 805-7928**
Honorable Michael H. Dolinger
United States Magistrate Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

BY FIRST-CLASS MAIL
Mr. Andrew Pinckney
#07-A-6416
72 Lock 11 Lane, Box 180
Cornstock, NY 12821-0180
PRO SE